

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YOUNAS HAJI,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,
THE CITY OF NEW YORK, DRUG
ENFORCEMENT AGENCY SPECIAL
AGENTS ROBERT BARRETT, KATE
BARNARD, PAUL BUCHANAN, AND
UNKNOWN EMPLOYEES OF THE
UNITED STATES, NEW YORK STATE,
AND NEW YORK CITY,

Defendants.

ECF Case

No. 08 Civ. 2230 (TPG)(JCF)

**DECLARATION OF DRUG
ENFORCEMENT
ADMINISTRATION
SPECIAL AGENT
ROBERT BARRETT**

Robert Barrett, pursuant to 28 U.S.C. § 1746, declares the following under penalty of perjury:

New York Organized Crime Drug Enforcement Strike Force

1. I am a Special Agent with the United States Drug Enforcement Administration ("DEA") where I have been employed for 12 years. Since 2004, I have been assigned to the New York Organized Crime Drug Enforcement Strike Force ("Strike Force"), a federal task force charged with investigating international drug trafficking and money laundering organizations with ties to New York City. The Strike Force is comprised, in part, of Special Agents with the DEA, Immigration and Customs Enforcement ("ICE"), the Internal Revenue Service ("IRS"), and other agencies, as well as federally-deputized officers of the New York State Police and New York City Police Department.

2. In connection with my work with the Strike Force, I have served as lead case agent in approximately ten investigations of drug trafficking and money laundering. In connection with my work with the Strike Force, I have participated in over several hundred drug-related arrests.

The Khat Investigation

3. During 2006, I was one of three case agents involved in the investigation of khat importation and distribution, and money laundering. As co-case agent, and assistant supervisor, my responsibilities included the gathering of intelligence through physical and/or electronic surveillance, identifying target subjects in the organization, debriefing confidential informants, and overseeing the investigation.
4. From February to July 2006, the Strike Force intercepted numerous telephone conversations of immigrants from Somalia discussing their receipt and distribution of moderate to large quantities of khat, a tall, evergreen shrub cultivated in Kenya, Ethiopia, and neighboring countries in Africa. Khat contains cathinone, a stimulant classified as a Schedule I controlled substance in the United States. Chewing khat results in euphoria and stimulation, and produces side effects that include a disorientation, hallucinations, outbursts of irrational violence, and hypertension. Khat is also highly addictive.
5. In so far as cathinone begins to dissipate from khat without refrigeration days after harvest, khat trafficking organizations must efficiently transport the plant from the African cultivation areas to users in the United States.

Typically, traffickers send cultivated bundles of khat by air to European cities, where it is then transferred to human couriers, who fly commercial aircrafts to the United States with khat-filled luggage, or by next-day commercial air deliveries to mail drops in the United States.

6. In early 2006, the Strike Force also learned that Somali immigrants supplied large quantities of khat to the Boston metropolitan area and used a money-transmitting business named Olympic Hawala, in Portland, Maine, which can be described as the Somali equivalent of Western Union, to send to Europe payments for khat shipments to, and proceeds of khat sales in, the United States. Due to a suspected link to an overseas terrorist cell, the Federal Bureau of Investigation's Joint Terrorism Task Force, participated in the investigation.
7. The Strike Force intercepted calls to and from suspected ring leaders Ali Awad ("Awad") and Bashi Muse ("Muse"), and many of those calls referred to a co-conspirator named "Yunis." Yunis himself received and placed telephone calls to Awad, Muse and others about Yunis picking up, mailing, and transporting packages of khat. The Strike Force traced Yunis's calls to a cellular phone number, listed to a female subscriber, at 13 Ruggles Street, Roxbury, Massachusetts, in the Boston metropolitan area.
8. The original language of most of the intercepted conversations was Somali. These conversations were then translated by translators assigned to assist the DEA in connection with the khat investigation.

The February 10, 2006 Surveillance

9. On February 10, 2006, the Strike Force conducted mobile surveillance, in unmarked vehicles, of several suspects, including Yunis, while intercepting the conspirators's telephone conversations. On that day, Strike Force agents monitored several cellular telephone calls in which Awad stated that he expected to receive a large khat shipment that DHL was to deliver to Mailboxes Etc., at 847 A 2nd Avenue, New York, New York. Thus, the Strike Force members established surveillance near that location.
10. Later during the day, two Special Agents, both members of the Strike Force, saw a driver off load from a DHL truck three brown boxes into Mailboxes, Etc. Soon thereafter, the Strike Force intercepted a call in which the store employee contacted Awad to inform him three boxes had arrived. Other monitored calls indicated that Awad was expecting four boxes of khat, but that ICE agents had seized one box at JFK airport.
11. Through earlier wiretapped conversations, the Strike Force also learned that Awad had instructed Yunis from Boston to rent a large Sport Utility Vehicle ("SUV"), and drive to Manhattan, to pick up the boxes of khat from Mailboxes Etc. Unknown to Yunis, Awad discussed with another khat trafficker, Osman Osman ("Osman"), that Awad did not fully trust Yunis, and that Osman would watch Yunis retrieve the boxes.
12. The Strike Force stationed at Mailboxes Etc., observed a maroon 2006 Chevrolet Upland SUV with Massachusetts license plates park near the store. The Strike Force observed a black male leave the SUV, and monitored

calls confirmed that it was Yunis. Yunis, with the assistance of the store clerk, placed all three boxes in the SUV. Yunis drove away, followed by Osman, and the Strike Force members followed the vehicles.

13. Yunis and Osman pulled over on Third Avenue, between 94th and 95th Street, where Osman was seen inspecting the khat. The two vehicles departed shortly thereafter, and Strike Force members followed.
14. The Strike Force agents then saw both vehicles stop on 118th Street, and intercepted calls revealed that Yunis and Osman were distributing khat to an individual who intended to transport khat to Minneapolis.
15. Monitored calls revealed that Yunis and Osman traveled to a FedEx Kinkos store in Harlem at 116th Street near Broadway. One of the Special Agents of the Strike Force identified Yunis' SUV and Osman's vehicle. Yunis was observed entering the FedEx Kinkos store with one cardboard box. One of the Special Agents also entered the FedEx Kinkos store, and saw Yunis filling out mailing labels.
16. Strike Force members realized that while Yunis was taking the first box into FedEx Kinkos, he left the door of his SUV open. One of the Strike Force members took a box of khat from the SUV. When Yunis returned to the SUV, Strike Force members observed him to be very upset, and monitored calls revealed that Yunis called Awad to tell him a box had disappeared. Awad then instructed Osman to return to FedEx Kinkos, at which point Osman met with Yunis, and both drove away in their separate vehicles to Connecticut.

17. Monitored calls also revealed that on March 16, 2006, and March 17, 2006, Yunis intended to retrieve ten boxes of khat from Germany, and that DHL was to deliver them to various Manhattan mail drops and then transport the boxes to Massachusetts, Ohio, and Minnesota. DHL Security seized those boxes, and I took representative samples for laboratory testing, and later confirmed that it was khat. Throughout the entire khat investigation, the Strike Force seized approximately five-and-one-half tons of khat with a street value of approximately \$10 million.

Identification of Yunis

18. Seeking to discover Yunis' last name, I asked for assistance from colleagues in the Boston DEA office. Specifically, I asked them to obtain photographs from the Boston Police Department of all individuals with the first name Yunis (or Younas, Younis, Yonas), and all persons associated with the address in Roxbury, Massachusetts, the subscriber for Yunis' cellular phone service. I also requested that ICE search immigration databases for all Somali immigrants with the first name of Yunis (and other spellings thereof), residing in Massachusetts and Maine, where we believed khat traffickers laundered proceeds through Olympic Hawala.
19. As requested, I received photographs and files from both the Boston DEA office and ICE. Among these was the immigration file of Younas Haji ("Haji"), which showed that Haji often transmitted money overseas through Olympic Hawala in Portland, Maine, that he had connections in Massachusetts, and that he was associated with a Somali immigrant named

Ismaciil Geele (“Geele”), a khat distributor well known to federal agents.

20. I then showed the photographs that I received from the Boston DEA office and ICE to the Special Agents who conducted the surveillance of Yunis at the FedEx Kinkos store on February 10, 2006. One of the Special Agents positively identified Haji as the man he observed at FedEx Kinkos. In light of this identification, and Haji’s connections with Olympic Hawala and Geele, we believed that we had identified Yunis of the khat trafficking organization.

Indictment of Younas Haji by a Grand Jury and Subsequent Arrest

21. On July 19, 2006, I testified before a federal grand jury in the Southern District of New York, presenting all the evidence the Strike Force had collected. That same day, the grand jury returned a six-count sealed indictment against 44 individuals, including Haji. Haji was named in the indictment as one of the “transporters for the Organization responsible for moving shipments of khat from one city to another city within the United States.”
22. Haji was charged in Count I with conspiracy to distribute and possess with intent to distribute a controlled substance, namely cathinone in the form of khat, in violation of 21 U.S.C. §§ 812, 841(a)(1), 841(b)(1)(C), and 846, and in Count II with conspiracy to import a detectable amount of cathinone, in the form of khat, in violation of 21 U.S.C. §§ 812, 952(a), 960(b)(3).

23. On July 19, 2006, a United States Magistrate Judge in the Southern District of New York signed arrest warrants for Haji and the other indicted individuals. As Haji's file indicated he lived in Portland, Maine, I asked Special Agent Katherine Barnard, based in the Portland, Maine DEA office, to execute the warrant. Special Agent Barnard executed the warrant and arrested Haji on July 26, 2006.
24. It is my understanding that Special Agent Barnard testified on Thursday, July 27, 2006, before the United States District Court for the District of Maine, in Portland, at an identity hearing, where the Magistrate Judge found that Haji was the same individual named in the arrest warrant.
25. On August 1, 2006, Haji appeared at a detention hearing in Portland, Maine. Special Agent Barnard called me to inquire whether I had any objection to releasing Haji on an unsecured bond with conditions. I told Special Agent Barnard that I had no objection. Haji was then released, and directed to appear in the Southern District of New York.

Dismissal of Haji's Indictment

26. In the meantime, Strike Force members had arrested other individuals named in the indictment, and showed Haji's photograph to several key co-conspirators and cooperating defendants, but none identified Haji.
27. I was informed by prosecutors that Haji was presenting evidence of an alibi, and I later learned from prosecutors that they would be filing a *nolle prosequi*.

28. At no time during the course of my testimony before the grand jury and through and including the arrest of Haji, did I have reason to believe that we had identified the wrong person. To the contrary, at all times, I believed the Strike Force had identified the Yunis who was part of the khat conspiracy.
29. I acted reasonably and believed in good faith that my actions were lawful during the entirety of the khat investigation.

Dated: July 30, 2008
Las Vegas, Nevada



ROBERT BARRETT